



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Jon Johnson, General Manager
Timber Products Company
Highway M-28 East
Munising, MI 49862

Re: Notice of Violation and Finding of Violation
Timber Products Company
Munising, MI

Dear Jon Johnson:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation and Finding of Violation (NOV/FOV) to Timber Products Company (you) under Sections 113(a)(1) and 113(a)(3) of the Clean Air Act, 42 U.S.C. §§ 7413(a)(1) and 7413(a)(3). We find that you are violating Title V program requirements, the Michigan State Implementation Plan, and conditions of a Michigan Department of Environment, Great Lakes, and Energy operating permit at your Munising, Michigan facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV/FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference. The EPA contacts in this matter are Veronica Fischer and Dakota Prentice. You may call or email Ms. Fischer at (312) 353-5685 or fischer.veronica@epa.gov, or Mr. Prentice at (312) 886-6761 or prentice.dakota@epa.gov to request a conference. You should make the request within 10 calendar days following receipt of this letter.

We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Nathan Frank
Supervisor, Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Jenine Camilleri, Enforcement Unit Supervisor
Air Quality Division
Environment, Great Lakes, and Energy (EGLE)
CamilleriJ@michigan.gov

Michael Conklin, District Supervisor
Air Quality Division
Environment, Great Lakes, and Energy (EGLE)
Conklinm1@michigan.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Timber Products Company
Munising, Michigan

Proceedings Pursuant to
Section 113(a)(1) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)(1)

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**NOTICE OF VIOLATION AND
FINDING OF VIOLATION
EPA-5-22-MI-06**

NOTICE OF VIOLATION AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice of Violation and Finding of Violation under Sections 113(a)(1) and (a)(3) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(1) and 7413(a)(3). EPA finds that Timber Products Company (Timber Products) is violating Title V program requirements, the Michigan State Implementation Plan (SIP), and conditions of a Michigan Department of Environment, Great Lakes, and Energy (EGLE)¹ operating permit, as follows:

Statutory and Regulatory Background

1. The Clean Air Act, 42 U.S.C. §§ 7401, et seq., and the regulations promulgated thereunder, establish a statutory and regulatory scheme designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population.

Michigan SIP

2. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA a plan that provides for the implementation, maintenance, and enforcement of primary and secondary National Ambient Air Quality Standards (NAAQS) in the state. Upon approval by EPA, the plan becomes a part of the applicable SIP for the state.
3. On March 8, 1994, EPA approved and promulgated Michigan Administrative Code (Mich. Admin. Code) r. 336.202 as part of the federally enforceable SIP for Michigan. 59 Fed. Reg. 10752.
4. Mich. Admin. Code r. 336.202 requires that sources of emissions of an air contaminant submit an annual report of emissions if, in the judgement of the department, information on the quantity and composition of an air contaminant emitted from the source is considered necessary for the proper management of air resources.

¹ In 2019, the Michigan Department of Environmental Quality was renamed EGLE.

5. On November 25, 1996, EGLE issued “AQD-013 Criteria Pollutant Threshold Levels for the Point Source Emissions Inventory” (AQD-013). AQD-013 was most recently revised on July 22, 2020.
6. AQD-013 provides the actual emission thresholds above which sources or facilities are required to report emissions annually. For PM_{2.5}, the threshold is 10 tons per year (particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers). AQD-013 also lists emission thresholds for particulate matter (PM), PM₁₀ (PM with an aerodynamic diameter less than or equal to a nominal 10 micrometers), carbon monoxide, nitrogen oxides, sulfur dioxide, volatile organic compounds, and lead.
7. AQD-013 states that “[o]nce a source triggers the need to report for any pollutant, that source must report for all pollutants listed above, and as applicable for the associated activity code.”
8. On December 16, 2013, EPA approved Michigan’s most recent revisions to Mich. Admin. Code r. 336.1105 as part of the federally enforceable SIP for Michigan. 78 Fed. Reg. 76064.
9. Mich. Admin. Code r. 336.1105 defines “emission unit” as “any part of a stationary source that emits or has the potential to emit an air contaminant.”
10. On March 12, 2019, EPA approved Michigan’s most recent revisions to Mich. Admin. Code r. 336.1101 as part of the federally enforceable SIP for Michigan. 84 Fed. Reg. 8809.
11. Mich. Admin. Code r. 336.1101 defines “air contaminant” as “a dust, fume, gas, mist, odor, smoke, vapor, or any combination thereof.”
12. On August 31, 2018, EPA approved Michigan’s most recent revisions to Mich. Admin. Code r. 336.1201 and 336.1203 as parts of the federally enforceable SIP for Michigan, effective October 1, 2018. 83 Fed. Reg. 44485.
13. Mich. Admin. Code r. 336.1201 states that “a person shall not install, construct, reconstruct, relocate, or modify any process or process equipment, including control equipment pertaining thereto, which may emit any of the following, unless a permit to install that authorizes such action is issued by the department.
 - i. Any air pollutant regulated by title I of the clean air act and its associated rules, including 40 C.F.R. § 51.165 and § 51.166, adopted by reference in R 336.1902.
 - ii. Any air contaminant.

A person who plans to install, construct, reconstruct, relocate, or modify any such process or process equipment shall apply to the department for a permit to install on an application form approved by the department and shall provide the information required in R 336.1203.”

14. Mich. Admin. Code r. 336.1203 states that “an application for a permit to install shall include information required by the department on the application form or by written notice.” The permit application requires, among other things, a complete description of each emission unit and a description of the uncontrolled and controlled quantity of all air contaminants that are reasonably anticipated due to the operation of the proposed process equipment.

EGLE Permit to Install

15. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated into a SIP is federally enforceable under CAA Section 113, 42 U.S.C. § 7413.
16. EPA approved Mich. Admin. Code r. 336.1201, “Permits to install” (the PTI rules), as part of the federally enforceable SIP for Michigan on August 31, 2018. 83 Fed. Reg. 44485. Since then, EPA has approved several revisions to the PTI rules.
17. On January 3, 1997, EGLE issued Permit to Install No. 292-96² (1997 Permit) to Timber Products Michigan at Highway M-28 East in Munising, Michigan (the Facility).
18. The Facility’s 1997 Permit includes the following emission units: wood-fired boilers #1, #2, #3, #4, sawmill, veneer mill, planer, and hydraulic ladder.
19. The Facility’s 1997 Permit Condition 14 states that “[t]he particulate emission from wood-fired Boiler #1 shall not exceed 0.50 pounds per 1000 pounds of exhaust gases, corrected to 50% excess air.”
20. The Facility’s 1997 Permit Condition 15 states that “[t]he particulate emission from wood-fired Boiler #2 shall not exceed 0.50 pounds per 1000 pounds of exhaust gases, corrected to 50% excess air.”
21. The Facility’s 1997 Permit Condition 16 states that “[t]he particulate emission from wood-fired Boiler #3 shall not exceed 0.50 pounds per 1000 pounds of exhaust gases, corrected to 50% excess air.”
22. The Facility’s 1997 Permit Condition 17 states that “[t]he particulate emission from wood-fired Boiler #4 shall not exceed 0.50 pounds per 1000 pounds of exhaust gases, corrected to 50% excess air.”

² Historically identified as an “Air Use Permit”, this permit was issued under Michigan’s federally approved PTI rules and will be referred to as a PTI.

Title V Program

23. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for major sources of air pollution.
24. Section 502(d)(1) of the CAA, 42 U.S.C. § 7661a(d)(1), requires each state to develop and submit to EPA an operating permit program which meets the requirements of Title V.
25. On December 4, 2001, EPA granted Michigan full approval of its Title V Clean Air Act Permit Program, effective November 30, 2001. 66 Fed. Reg. 62949.
26. 40 C.F.R. § 70.1(b) states that “[a]ll sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements.”
27. 40 C.F.R. § 70.2 defines “major source” as, among other things, any stationary source that directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation.
28. 40 C.F.R. § 70.2 defines “regulated air pollutant” as any pollutant for which an ambient air quality standard has been promulgated.
29. On July 1, 1987, EPA promulgated a NAAQS for PM₁₀. 52 Fed. Reg. 24634. The PM₁₀ NAAQS was most recently retained without revision on December 18, 2020. 85 Fed. Reg. 82684.
30. 40 C.F.R. § 70.3(a)(1) finds that “any major source” is subject to permitting requirements of a State program with whole or partial approval.
31. 40 C.F.R. § 70.2 defines “Part 70 source” as any source subject to the permitting requirements of Part 70, as provided in 40 C.F.R. §§ 70.3(a) and 70.3(b).
32. 40 C.F.R. § 70.5(a) provides that “for each part 70 source, the owner or operator shall submit a timely and complete permit application in accordance with this section.”

Relevant Factual Background

33. Timber Products owns and operates a lumber processing and veneer manufacturing facility at Highway M-28 East, Munising, Michigan 49862.
34. On October 27, 2021, EPA conducted an inspection of the Facility to evaluate compliance with the CAA (the Inspection).
35. Following the Inspection, Timber Products provided several documents to EPA, including a performance test report documenting the results of testing conducted at Boilers Nos. 2, 3, and 4 in 1995 (1995 Performance Test).

36. The 1995 Performance Test included PM emission data collected using EPA Reference Method 5B and provides the following average emission factors:

Emission Unit	PM Emission Factor (lb/1000 lb corrected to 50% excess air)	PM Emission Factor (lbs/hr)
Boiler 2	0.805	19.21
Boiler 3	0.669	18.71
Boiler 4	0.590	17.52

37. On February 16, 2022, EPA issued an information request to the Facility under Section 114 of the CAA, 42 U.S.C. § 7414 (Information Request). Among other things, the Information Request asked Timber Products to “provide a list of all emissions tests conducted at the Facility for any reason, from February 1, 2012 to the present.”
38. On April 13, 2022 and May 16, 2022, Timber Products provided responses to the Information Request (Information Request Responses).
39. The Information Request Responses stated that no emissions testing had been performed at the Facility since February 1, 2012.
40. In an email dated June 9, 2022, Timber Products representatives stated that, “...no performance test, or emissions test of any kind, was performed at Boilers #2, 3, and 4, between the 1995 [Performance T]est and February 2012.”

Emissions Calculations

41. In the Information Request Response, Timber Products provided Michigan Air Emissions Reporting System (MAERS) reports for 2017 through 2021.
42. The MAERS data indicates Timber Products has reported PM_{2.5} emissions exceeding the reporting threshold since at least 2017.
43. The MAERS Reports submitted between 2017 and 2021 do not include emission data for numerous emission units at the Facility including, but not limited to, the kilns and the veneer dryer.

Title V and Permit to Install

44. In the Information Request Response, Timber Products provided potential to emit (PTE) calculations for emission units at the Facility. These PTE calculations identified at least the following information that was not included in the 1997 Permit:

- i. Reasonably anticipated emissions of volatile organic compounds (VOCs) from the kilns; and
 - ii. Reasonably anticipated emissions of VOCs from the veneer dryer.
45. The PTE calculations provided in the Information Request Response provided an emissions ratio of 0.9 PM₁₀ to filterable PM using Method 5B.
46. On May 8, 1996, Timber Products submitted an application to EGLE to opt-out of the Title V Renewable Operating Permit requirements and obtain the 1997 Permit (1996 Permit Application).
47. The 1996 Permit Application included PTE calculations using a PM emission factor based on EPA's AP-42 Compilation of emission factors rather than emission factors from the 1995 Performance Test.
48. The 1996 Permit Application did not identify any potential or actual emissions from at least the kilns and veneer dryer.
49. The 1996 Permit Application notes that "Boiler #1 and Boiler #2 are identical units; therefore, the emission factors will appear identical."
50. EPA calculated PM emissions for the Facility using the hours of operation provided for each boiler in the MAERS Reports, a ratio of 0.90 PM₁₀ to filterable PM using Method 5B, as done in the Information Request Response, and the emission factors from the 1995 emissions test.
51. EPA calculated PM emissions for 2017 as follows:

Emission Unit	Hours of Operation	PM Emission Factor (lb/hr)	PM Emissions (tpy)
Boiler 1	5952	19.21	57.17
Boiler 2	7560	19.21	72.61
Boiler 3	8424	18.71	78.81
Boiler 4	8064	17.52	70.64

The total amount of PM₁₀ emissions was calculated to be 251.3 tons in 2017.

52. EPA calculated PM emissions for 2018 as follows:

Emission Unit	Hours of Operation	PM Emission Factor (lb/hr)	PM Emissions (tpy)
Boiler 1	5616	19.21	53.94
Boiler 2	7320	19.21	70.31
Boiler 3	8496	18.71	79.48
Boiler 4	8544	17.52	74.85

The total amount of PM₁₀ emissions was calculated to be 250.7 tons in 2018.

53. EPA calculated PM emissions for 2019 as follows:

Emission Unit	Hours of Operation	PM Emission Factor (lb/hr)	PM Emissions (tpy)
Boiler 1	6792	19.21	65.24
Boiler 2	5832	19.21	56.02
Boiler 3	8208	18.71	76.79
Boiler 4	8352	17.52	73.16

The total amount of PM₁₀ emissions was calculated to be 244.1 tons in 2019.

54. EPA calculated PM emissions for 2020 as follows:

Emission Unit	Hours of Operation	PM Emission Factor (lb/hr)	PM Emissions (tpy)
Boiler 1	7440	19.21	71.46
Boiler 2	4800	19.21	46.10
Boiler 3	8208	18.71	76.79
Boiler 4	8352	17.52	73.16

The total amount of PM₁₀ emissions was calculated to be 238.2 tons in 2020.

55. EPA calculated PM emissions for 2021 as follows:

Emission Unit	Hours of Operation	PM Emission Factor (lb/hr)	PM Emissions (tpy)
Boiler 1	6240	19.21	59.94
Boiler 2	6360	19.21	61.09
Boiler 3	8496	18.71	79.48
Boiler 4	8352	17.52	73.16

The total amount of PM₁₀ emissions was calculated to be 246.3 tons in 2021.

Violations

56. By emitting 0.805 lb PM/1000 lb, corrected to 50% excess air, from Boiler #1, Timber Products has violated Condition 14 of the 1997 Permit.
57. By emitting 0.805 lb PM/1000 lb, corrected to 50% excess air, from Boiler #2, Timber Products has violated Condition 15 of the 1997 Permit.
58. By emitting 0.669 lb PM/1000 lb, corrected to 50% excess air, from Boiler #3, Timber Products has violated Condition 16 of the 1997 Permit.
59. By emitting 0.590 lb PM/1000 lb, corrected to 50% excess air, from Boiler #4, Timber Products has violated Condition 17 of the 1997 Permit.
60. By failing to provide emission data for numerous emission units at the Facility including the kilns and the veneer dryer, in its annual MAERS Reports from 2017 to 2021, Timber Products violated the requirements of Mich. Admin. Code r. 336.202.
61. By failing to include all reasonably anticipated air contaminants, such as VOC emissions from the kilns and veneer dryer, in its 1996 Permit Application, Timber Products has violated the requirements of Mich. Admin. Code r. 336.1201 and 336.1203.
62. By emitting more than 100 tons of PM₁₀ without obtaining a Title V operating permit, Timber Products is in violation of 40 C.F.R. §§ 70.1(b) and 70.5(a).

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division